

City of Muskegon
City Commission Meeting
Minutes

April 11, 2023, 5:30 pm
Muskegon City Hall
933 Terrace Street, Muskegon, MI 49440

Present: Mayor Ken Johnson
Commissioner Rachel Gorman
Commissioner Rebecca St.Clair
Vice Mayor Willie German, Jr.
Commissioner Michael Ramsey
Commissioner Teresa Emory

Absent: Commissioner Eric Hood

Staff Present: City Manager Jonathan Seyferth
City Clerk Ann Meisch
City Attorney John Schrier
Deputy City Clerk Kimberly Young

1. Call To Order

The Regular Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m. on Tuesday, April 11, 2023.

2. Prayer

Pastor Jeremy Lenertz, First Wesleyan Church, opened the meeting with prayer.

3. Pledge of Allegiance

The Pledge of Allegiance to the Flag was recited by the Commission and the public.

4. Roll Call

As recorded above

5. Honors, Awards, and Presentations

6. Public Comment on Agenda Items

Public comments were received.

7. Consent Agenda

Action No. 2023-50

Motion by: Commissioner Ramsey

Second by: Vice Mayor German

To accept the consent agenda as presented, minus item 7B.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

7.a Approval of Minutes - City Clerk

To approve the minutes of the March 13, 2023 Worksession and March 14, 2023 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

7.c Amendments to the zoning ordinance, marihuana processing - Planning - 2ND READING REQUIRED

Staff initiated request to amend the B-2, B-4, I-1, I-2 and MC sections of the zoning ordinance to allow marihuana processing facilities without extraction methods classified as hazardous under the Michigan Building Code as a special use permitted. The Planning Commission recommended approval of the amendments by a 7-0 vote at their March 16, 2023 meeting.

STAFF RECOMMENDATION: To approve the request to amend the B-2, B-4, I-1, I-2 and MC sections of the zoning ordinance to allow marihuana processing facilities without extraction methods classified as hazardous under the Michigan Building Code as a special use permitted.

7.d Rezoning a portion of 560 Mart St - Planning - 2ND READING REQUIRED

Request to rezone a portion of the property at 560 Mart St from B-2, Convenience & Comparison Business to WM-Waterfront Marine, by West

MI Dock & Market. The Planning Commission recommended approval of the rezoning by a 7-0 vote at their March 16 meeting.

STAFF RECOMMENDATION: To approve the request to rezone a portion of 560 Mart St from B-2 to Waterfront Marine.

7.e Rezoning of 1163 Terrace St - Planning - 2ND READING REQUIRED

Request to rezone the property at 1163 Terrace St from R-3 Residence to B-2, Convenience & Comparison Business, by Ryan Burns. The Planning Commission recommended approval of the rezoning by a 7-0 vote at their March 16 meeting.

STAFF RECOMMENDATION: To approve the rezoning of 1163 Terrace St from R-3 to B-2.

7.f Deficit Elimination Plan - Brownfield Redevelopment Authorities - Finance

To approve the Deficit Elimination plan and resolution for the Brownfield Redevelopment Authority (combined) and direct staff to submit plan to the State of Michigan.

At June 30, 2022 the Brownfield Redevelopment Authority (combined) had a \$64,211.00 deficit. Act 275 of Public Acts of 1980 requires the City to formulate a deficit elimination plan and submit it to the Michigan Department of Treasury. The deficit elimination plan and resolution for the Brown Field Redevelopment are attached.

The State wanted more clarification on the deficit with a different layout, plus I extended the plan one more year.

STAFF RECOMMENDATION: To approve the deficit elimination resolution for the Brownfield Redevelopment.

7.g Emergency Management Resolution - Pubic Safety

We are asking for resolution to the Emergency Management Resolution as there are name/job updates. The City of Muskegon is incorporated into the Muskegon County Emergency Management Program. By being part of the county Emergency Management Program, the City of Muskegon and the County of Muskegon have certain responsibilities to each other. This Support Emergency Operations Plan was developed to identify the responsibilities between the City of Muskegon and the County of Muskegon in regards to pre-disaster emergency management activities.

STAFF RECOMMENDATION: To approve and the appropriate department heads, city mayor and city clerk to sign the 2023 Emergency Management Resolution as is with the updated names and jobs titles.

7.h Sale of 740 Leonard Avenue - City Manager

Staff is requesting approval of a purchase agreement for 740 Leonard Avenue. 740 Leonard Avenue was constructed through the agreement with Rudy Briggs to construct infill housing with ARPA funding. The offer is for full asking price with no seller concessions. Please note that the offer is contingent on the sale of the buyer's current residence. 740 Leonard will remain on the market until the contingency is removed.

STAFF RECOMMENDATION: To approve the purchase agreement for 740 Leonard Avenue.

7.b Opioid Settlement, Round 2 - City Manager

This is the second round of Opioid settlement dollars the City will be receiving. This settlement agreement is with Teva, Allergan, CVS, and Walgreens. Participation in the settlement agreement removes the City's right to take individual legal action against any of the participating companies.

There are several legal actions taken against pharmaceutical companies and retailers (pharmacies) which had a large role in creating the opioid crisis.

The State of Michigan is participating in settlements with Teva, Allergan, CVS, and Walmart. Because the state is participating, local units have the option to participate as well and we have until Tuesday, April 18 to opt in. If we opt in we will receive a portion of the state's settlement dollars related to this action. We do not have exact estimates of dollars the City will receive related to this settlement round.

A few items to note:

- Settlement dollars can only be used for specific opioid related uses (an attachment follows the settlement documents with those approved uses – mostly related to treatment and services for those suffering from opioid addiction)
- Participation takes away the City's ability to take legal action against the participating companies

STAFF RECOMMENDATION: To approve participation in the national opioid settlement as presented by the State of Michigan with Teva,

Allergan, CVS, and Walgreens and authorize the City Manager to sign all related documents.

Action No. 2023-51

Motion by: Commissioner St.Clair

Second by: Commissioner Ramsey

To approve participation in the national opioid settlement as presented by the State of Michigan with Teva, Allergan, CVS, and Walgreens and authorize the City Manager to sign all related documents.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

8. Public Hearings

9. Unfinished Business

10. New Business

10.a Non-union employee insurance premiums - City Manager

Traditionally (and per all 5 union contracts) employees paid 10% of their health benefits (after 2017 this included three components Health Insurance, Co-insurance and Deductibles). At some point an error in the calculation occurred and employees began paying more than 10%. The unions brought this to our attention in early 2023 and the insurance contributions have been corrected for the unions (as it's a negotiated benefit we cannot divert from this percent). Now the Commission needs to decide how to handle non-union employees' contributions which traditionally have been the same as union employees.

Starting in 2017 the City began using three different factors to determine employee contributions to their insurance premiums (a percent of actual monthly premiums and a percent of City Paid Benefits (co-insurance & deductibles)). Prior to 2017 just insurance premiums were used as a factor. This change was made because of cost increases in co-insurance and deductibles.

Sometime after 2017 a calculation error occurred and employee's contributions increased above the 10% level. Technically, this is ok for non-union employees as the Commission can set the non-union insurance contributions at any rate it desires. However, traditionally, the insurance contributions have been the same across all employee classes. Staff is recommending that non-union employees be brought into line with union employees and contribute 10% toward the total cost of their health insurance (including co-insurance & deductibles). For the balance of the current plan year, this will cost the City about an additional \$12,000 in health benefit costs (this is union and non-union employees). For future years, we'll budget correctly for the adjustment.

Another consideration this brings up, does the City refund to non-union employees' overpayments of health insurance contributions for the same time period as we were required to do for union employees? (Going back to Jan. 1, 2020.) We do not have an exact number on what this overpayment back to employees would be, but in general would be at most \$3,100 for the three years of overpayments per employee. This would be for a family plan; single and double refunds would be less. The reason we don't have a hard number on this is because the finance department has to go employee by employee to calculate the individual overpayments.

STAFF RECOMMENDATION: To change non-union staff contributions for insurance to 10% inclusive of actual health care premiums and City Paid Benefits of co-insurance and deductibles.

Action No. 2023-52 (A)

Motion by: Commissioner St.Clair

Second by: Commissioner Ramsey

To change non-union staff contributions for insurance to 10% inclusive of actual health care premiums and City Paid Benefits of co-insurance and deductibles.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

10.b Climate Action - City Manager

A Climate Action resolution to drive City policy on this topic.

Earlier this year the Commission asked staff to draft a Climate Action resolution that would direct City staff and departments regarding climate change. This resolution sets out broad guidelines for staff to operate under to impact the City's (municipal corporation's) carbon footprint with the objective of becoming carbon neutral by 2040.

STAFF RECOMMENDATION: To approve the City of Muskegon's Climate Action Resolution with the objective of measuring and reducing the City's carbon footprint and authorize the Mayor and Clerk to sign.

Action No. 2023-52(B)

Motion by: Commissioner Ramsey

Second by: Commissioner Emory

To approve the City of Muskegon's Climate Action Resolution with the objective of measuring and reducing the City's carbon footprint and authorize the Mayor and Clerk to sign.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

10.c Amendment to the zoning ordinance, carriage house requirements - Planning - 2ND READING REQUIRED

Staff initiated request to amend the form-based code section of the zoning ordinance to allow carriage houses with only a one-story minimum requirement and only a 20-foot depth requirement.

Carriage houses are currently required to be two stories and have a minimum depth of 30 feet.

The Planning Commission recommended approval of the amendments by a 6-1 vote at their March 16 meeting.

STAFF RECOMMENDATION: To approve the requested amendments to allow carriage houses with only a one-story minimum requirement and only a 20-foot depth requirement

Action No. 2023-52(C)

Motion by: Commissioner Ramsey

Second by: Commissioner St.Clair

To approve the requested amendments to allow carriage houses with only a one-story minimum requirement and only a 20-foot depth requirement.

Ayes: (5): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Ramsey, and Commissioner Emory

Nays: (1): Vice Mayor German

Absent (1): Commissioner Hood

MOTION PASSES (5 to 1)

11. Any Other Business

11.a City Manager Comments

City Manager, Jonathan Seyferth, explained that the podium was in the center of the meeting room on a trial basis. Manager Seyferth also informed the Commission that he and City Clerk, Ann Meisch, would be representing the city in attending the funeral of Dennis Stepke, former City Manager for the City of North Muskegon.

11.b Public Safety Director Update

Chief Kozal provided an update on the investigation of a recent shooting resulting in the tragic loss of life in the city. He went on to inform the Commission of the efforts the department is taking to try to reduce gun violence.

12. Public Comment on Non-Agenda items

Public comments were received.

13. Closed Session

13.a Pending Litigation

Action No. 2023-53

Motion by: Commissioner St.Clair

Second by: Vice Mayor German

To go in to closed session to consult with our attorneys regarding settlement strategy in connection with Loretta Lyons versus Muskegon Police Department Officers Richard McCabe, James Gust, Tony Fountain, and Doug Conrad, United States District Court Western District of Michigan, Case number 22-CV-0167 because an open meeting would have a detrimental financial effect on the settlement position of the City of Muskegon and defendants.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

Action No. 2023-53

Motion by: Commissioner St.Clair

Second by: Commissioner Emory

To return to open session.

MOTION PASSES

Action No. 2023-53

Motion by: Commissioner Ramsey

Second by: Commissioner Emory

To follow the advice from counsel regarding settlement of Lyons v. McCabe, et al. lawsuit pending in Federal Court in the Western District of Michigan.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

14. Adjournment

The City Commission meeting adjourned at 7:35 p.m.

Respectfully Submitted,
Ann Marie Meisch, MMC - City Clerk